

**MINUTES**  
**COMMISSIONERS OF BRIDGEVILLE**  
**July 8, 2013 – 6:00 P.M.**  
**BRIDGEVILLE PUBLIC LIBRARY**

**IV. OPEN SESSION CALL TO ORDER**

The meeting was called to order by President Pat Correll at 6:02 P.M. Present: Commissioners Paul Kovack, Sharon McDowell, Lawrence Tassone, Town Manager Jesse Savage, Code Enforcement Officer (CEO) Jerry Butler and Town Solicitor Dennis Schrader. The meeting began with the Pledge of Allegiance and a moment of silence in honor of the recent tragedies in our nation.

President Correll reported a quorum of 4 members was present to discuss the business of the Town of Bridgeville, despite the absence of Commissioner Mervine.

**V. APPROVAL OF AGENDA**

Commissioner Tassone made a motion to approve the Agenda with the July 2<sup>nd</sup> amendment to add “VI. Possible Action Taken on Executive Session Issue”. Commissioner Kovack seconded the motion. Motion carried 4 to 0.

**VI. POSSIBLE ACTION TAKEN ON EXECUTIVE SESSION ISSUES**

Town Manager Savage advised the first Executive Session Agenda item involves a purchase/sale agreement. Dollar General has approached the Commissioners concerning an interest in purchasing 2 lots owned by the Town across from Town Hall. The first lot is the current municipal parking lot on Market St. and the corner of Market and N. Main Sts. where the “Welcome to Bridgeville” sign is located; the second lot is located at 104 N. Main St. 102 N. Main St. is owned by a third party and Dollar General is under separate negotiation to buy that property, as well. Dollar General will purchase the 2 properties from the Town for \$157,500. Solicitor Schrader advised the sale is contingent on certain approvals and due diligence on the part of the purchaser, which should take several months, after which the property can go to settlement.

Commissioner Tassone made a motion to approve the sale of Town-owned property as detailed above for \$157,500. Commissioner Kovack seconded the motion. Motion carried with a vote of 4 to 0.

Solicitor Schrader advised the second Executive Session Agenda item involves a purchase/ sale agreement between Timothy A. Banks as the seller and the Town as the buyer of the property at 105 S. Main St. for \$95,000. The only contingency is the title of the property must be conveyed free and clear to the Town. Commissioner Kovack made a motion to purchase the property from Mr. Banks for \$95,000. Commissioner McDowell seconded the motion. Motion carried with a vote of 4 to 0.

**VII. APPROVAL OF MINUTES**

Motion to approve the Minutes from the June 10<sup>th</sup> Commission meeting and the June 10<sup>th</sup> Executive Session – Tassone; 2nd – Kovack; motion carried 4 to 0.

## **VIII. WOODBRIDGE FFA PRESENTATION**

President Correll introduced Mrs. Karen Breeding as the Woodbridge Future Farmers of America (FFA) sponsor. She reported the five students who are practicing their presentation tonight before this audience are the Woodbridge FFA Issues Team; they are preparing to make their final presentation at the Delaware State Fair contest. The group has been conducting research on their agriculture topic and practicing before various audiences. The winner of this competition will compete at the National FFA Convention in Louisville, Kentucky. The FFA members chose the topic of the enforcement of Farm Use tags in Delaware. The presentation was followed by questions from the audience.

## **IX. CORRESPONDENCE**

Town Manager Savage advised the Commissioners have received an invitation from the Historical Society to their 35<sup>th</sup> Social & Auction on September 7<sup>th</sup> beginning at 6:00 P.M., with an auction at 7:00 P.M. An RSVP is requested.

The Commissioners have received an invitation from the Division of State Police to attend the State Police Academy Graduation Ceremony for Bridgeville's three new police recruits. The program is scheduled for August 2, 2013, 2:00 P.M. at Delaware State University.

The Town has received a letter of thanks from the Delaware Sports Museum and Hall of Fame for the Commissioners' contribution of \$225 in memory of Mr. Fillmore Clifton.

A letter has been received from State Senator Brian Pettyjohn concerning House Bill 81. He thanked the Town for our letter to him and asked the Commissioners to watch the bill closely and attend any future committee hearings to express our concerns. President Correll added her thanks to the Commissioners who have taken the time to go to Dover for committee sessions. The House tabled the issue and Delaware League President Wright advised it will come up again in January: the Towns should be watchful about the proceedings at that time. This is a bill that would be extremely detrimental to Bridgeville and other small municipalities in the state.

## **X. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE**

Balance Sheet – June 30, 2013

General Fund – \$140,533

Reserve Accounts – \$621,285

All Accounts total – \$938,147 (a decrease of \$71,576 from May)

Budget Report Target – 100%

Income – \$2,308,638 (\$44,000 over budget) Expenses – \$2,230,372 (99% of the budget)

Net Income – \$78,266

Additional bills and income will be coming in during July. Town Manager Savage will provide an updated report at the end of the month. Commissioner Tassone asked for an estimated year-end surplus; Town Manager Savage estimated \$100,000 – \$125,000.

Accounts Payable

Bills – \$89,657      Expected Expenses – \$126,500

Amount to be approved - \$216,157

Motion to approve the bills as presented – Tassone; 2<sup>nd</sup> – McDowell; motion carried 4 to 0.

**XI. TOWN REPORT**

Commissioner Tassone questioned the cost and frequency of street sweeper broom replacements. Town Manager Savage advised it depends on wear; however, Street Superintendent Passwaters makes necessary replacements yearly. The cost is from \$1,000-2,500 and is also budgeted yearly. Commissioner Kovack doesn't believe the brooms need replacing very often at all.

Commissioner Tassone remarked we have had a lot of rain this year and wondered if the spray irrigation pond is large enough to hold all the water waiting to be sprayed. Town Manager Savage advised the pond is able to hold more than a month's worth of water. The pond was almost full last Monday; therefore, the rigs were run every day last week.

Commissioner Tassone questioned the electric drive motor on Clarifier 2 that shorted out and was overhauled. He wanted to know who did the work and if it was warranted. It appeared that the new wiring installed earlier in the month had failed and the company should have done this work under warranty. Town Manager Savage reported there was a back-up that was used.

Commissioner Tassone questioned the quarterly sampling performed at Rapa on the treatment plant's raw influent. Town Manager advised the influent is coming from Rapa & Pet Poultry; they treat it on-site.

Commissioner Tassone asked the status on the Inflow and Infiltration Report. Town Manager Savage reported last week they finished the CCTV examination and have gone out to bid on the Bridgeville Branch repairs behind the auto body shop. The study itself needs to be written up; repairs will be on-going.

It was clarified that the CCR (Consumer Confidence) Report is the annual Water Quality Report that is placed in the Town newsletter every year.

**XII. CITIZEN'S PRIVILEGE**

President Correll asked residents who wish to make comments to come up to the podium and limit their comments to 2 minutes.

Mr. Alan Greene from Heritage Shores questioned the Accounts Payable line item for Health Insurance and questioned if the Town has projected its health care costs for the next year. Town Manager Savage advised the monthly premiums will go up approximately \$50 per employee, effective July 1. The Town is involved in the state's health insurance plan as a non-payroll group.

Mr. Green also asked if the Commissioners are familiar with the email that the Heritage Shores developer sent to all their residents concerning the requested changes and zoning requirements. Solicitor

Schrader advised there would be a Public Hearing later in this meeting. Mr. Green advised the developer announced they don't want the Public Hearing tonight, so why does it remain on the Agenda? Solicitor Schrader advised a Public Hearing is being held because it was properly advertised and noticed for this evening. A request by letter has been received, but a decision has not been made. President Correll advised the Agenda must be posted a week before the meeting. Town Manager Savage added that the Public Hearing requires a 15-day advance notice, so the Town advertised for the Public Hearing well in advance of the receipt of the letter.

Mrs. Ruth Skala from 108 Whistling Duck Dr. asked the status of the Greenwood Agreement. Town Manager Savage advised Greenwood has not signed the agreement that Bridgeville signed a year ago. He had a meeting with Greenwood two weeks ago and requested that they put in writing where they stand and their proposed end result. Mrs. Skala asked how long the Town can operate on the old permit. Town Manager Savage advised the old permit will expire in January and the new permit doesn't go into effect until there is a new agreement with Greenwood. Commissioner Kovack added that DNREC is well aware of the efforts Bridgeville is making regarding Greenwood and we are currently being allowed to operate on the old permit.

Mr. James Stephenson from 29 Amanda's Teal Dr. returned to the bad wiring in the Wastewater Department report and asked why the breaker did not function to save the motor. Town Manager Savage advised he would investigate the matter and report on it at the August Commission meeting. He added a great deal of the equipment at the Wastewater Plant is beyond its service life.

### **XIII. OLD BUSINESS**

There was no Old Business to discuss at this meeting.

### **XIV. NEW BUSINESS**

#### **A. Consideration and Possible Approval of Heritage Shores Landscaping and Maintenance Plan**

Solicitor Schrader reported the Commissioners of Bridgeville have received a letter from Mr. Bill Atwood, Chairman of the Planning and Zoning Commission (P&Z), along with the minutes of the recent meetings and letter of July 5, 2013. At their May 15<sup>th</sup> meeting, the P&Z approved a Landscaping and Maintenance Plan with grass height limits of 18" (yellow shaded areas) and 12" (pink areas). At their June 19<sup>th</sup> meeting, after a re-evaluation of the plan and additional testimony, the P&Z rescinded that approval and voted to approve the 24" and 18" grass height limits with a vote of 6 to 0. The P&Z therefore sends a recommendation to the Commissioners of Bridgeville for their approval of the Landscaping and Maintenance Plan dated June 18, 2013 with 24" and 18" grass height limits.

Solicitor Schrader asked the Heritage Shores representative to present the application. Solicitor Ryan Showalter reported he was there to represent Passwaters Farm LLC and advised the Master Plan is the culmination of many months of conversations with the Commissioners, Town staff, P&Z and Passwaters Farms concerning appropriate management of the future development areas at Heritage Shores (H.S.). The various colored areas on the map describe predictable expectations for property management. The golf course is in white and will continue to be managed by the golf operation. Green areas are existing or platted lots to be developed, along with the common areas, the Club House area and entrances.

These areas will be mowed at 8" or less. The brown area has trees/saplings growing. They intend to stake the area so that mowing can come up to its boundaries; it will continue to re-vegetate. It is a future development area and is currently a habitat for wildlife. The pink areas are located adjacent to the developed (green) areas and the developer proposes to mow them when the predominant grass height is 18". They will be cut to approximately 8" in height with a bush hog. The yellow areas are future development areas that are distant from residential areas and the golf course and are proposed to be mowed when the predominant grass height is 24" in height to approximately 8". The frequency of mowing would be as weather dictates (dry year – less frequency; wet year – greater frequency).

Solicitor Showalter advised the P&Z initially recommended lower heights of 18" and 12" on these areas, but changed their decision at the June 19<sup>th</sup> P&Z meeting to 24" and 18". Street names and notes were added to the diagram, as well as signature lines, as requested by the P&Z members. He reported the property management plan will be updated on a phase-by-phase basis as the development grows. Pink areas will change to green when developed and change to an 8" mowing height, per Town Code. (A property management plan relates to undeveloped property; a property landscaping plan relates to developed property.)

Solicitor Schrader asked Solicitor Showalter to review the change of the P&Z from 18" and 12" to 24" and 18". Solicitor Showalter identified the green areas on the map, which will always be mowed to 8". He identified the pink areas on the map which will be mowed to 8" whenever the predominant grass height reaches 18". The yellow areas on the map are distant from the residences and will be mowed to 8" when the predominant grass height reaches 24".

Solicitor Schrader opened the floor for questions and comments from the Commissioners. Commissioner Tassone advised he was shocked when P&Z went back to the original grass height projection of 24" and 18", which was presented to the Town 2 years ago and turned down conclusively. Now the developer returns again with the 24" request. Commissioner Tassone commented 24" allows for weed propagation, vermin and fire danger; although, aesthetically, it is moot at a distance. He believes 24" will not be a good height/good idea for H.S.

Commissioner Kovack reviewed the May P&Z meeting. A Public Hearing was held and the vote for 24" and 18" grass heights was taken with a 3 to 3 tie vote. A second compromise vote was taken of 18" and 12" and it passed 5 to 1. P&Z Chairman Atwood asked if that was sufficient to send to the Town Commission; however Solicitor Schrader suggested at that meeting that the developer return with a revised map of 24" and 18" along with other map details requested by the P&Z. The June 19<sup>th</sup> P&Z meeting resulted in another vote on the grass height back to 24" and 18". Commissioner Kovack believes the P&Z should have only been allowed one vote on the matter, not two. He believes the Town Commission should be voting on the P&Z's 18" and 12" mowing height recommendation, not the 24" and 18" recommendation.

Solicitor Schrader explained that at the May meeting there were changes to the plan required by the P&Z and it was the intent to have Solicitor Showalter return in June with the updated plan for the final review and approval of the P&Z and that is why there was another vote in June.

Commissioner Kovack does not believe the P&Z vote at the June 19<sup>th</sup> meeting was legitimate because they voted on the heights at the May 19<sup>th</sup> meeting.

Solicitor Schrader advised the Town Commission will be able to vote for approval of its own set of heights tonight.

Commissioner McDowell understands that H.S. is a part of Bridgeville. The Town Code calls for an 8" height limit on grass in Town. "Why don't you just cut your grass?"

Solicitor Showalter advised the development has 300 acres to cut, unlike an acre or less for other Bridgeville homeowners. Mowing that much land on a weekly/biweekly schedule is not economically viable. The developer would consider farming the extra land; however, the irrigation is no longer in place and they can't find anyone to till it. He added if it were an agricultural operation, it would grow taller than the heights we are discussing tonight. When the developer returned to the P&Z for the June meeting they submitted and 24" and 18" plan and an 18" and 12" plan. The taller mowing plan is about economics. The cost belongs to the developer; however, he used the analogy "it's a different pocket, but the same pair of pants that the money comes from." Concerning the fire danger, Solicitor Showalter remembers Fire Chief Cannon stating that the fire danger is not necessarily greater between 18" and 24". He added that there were very few members of the public in attendance for the May P&Z meeting and there were many more for the June P&Z meeting. It is his understanding that the feedback at the June P&Z meeting led the P&Z to accept the taller heights of 24" and 18". They heard comments such as consideration of wildlife, natural aesthetics and less investment of money in mowing.

Commissioner Tassone asked Town Manager Savage whether any other planned community he researched allowed a 24" height of grass. Town Manager Savage answered "no".

The floor was opened at 7:14 P.M. for public comment in favor of the application.

Mrs. Jacqueline Vogle from 124 Widgeon Way advised she has attended all the meetings concerning this topic and agrees that Solicitor Schrader is correct about the P&Z changing their vote; most of the H.S. residents in attendance at the June P&Z meeting were in favor of the greater grass height. She supports the greater height, as well.

Mr. Kevin Fallon from 104 Emily's Pintail Dr. advised since this is an economic issue, he believes the burden of proof concerning the increase in bugs and vermin should be on those who believe there is an increase, but he doubts there is a great deal of difference in bugs and vermin between 24" and 18".

Mr. Michael Harrigan from 20 Amanda's Teal Dr. reported that the cost issue concerns him. They pay more than \$1,000 per year extra to the Town for the entire infrastructure plus the taxes increase a small amount every year. The developer will pay for this, but it all runs downhill. Commissioner Tassone corrected Mr. Harrigan and stated that the money he alluded to does not come to the Town, it goes to the bond management company. Mr. Harrigan understands that, but does not believe they should add more to the increasing expenses to cut grass.

Commissioner Kovack advised lower bids for grass cutting had been submitted to H.S. that weren't entertained.

Mr. Leo Lynch from 106 Emily's Pintail Dr. mentioned the Plantation Lakes development whose developers have continued to have problems. It all comes down to whether or not the developer can make a profit and sell their homes. "We don't want to lose another developer."

Mr. Steve Kendall from 125 Whistling Duck Dr. reported one issue brought up by P&Z was the impact on the bay and other environmental factors and everyone began leaning toward going more natural. The Town should trust what the P&Z is recommending.

Mr. Jim Stephenson from 29 Amanda's Teal Dr. described an area on Rt. 404 where a golf course has closed. The 24" grass has been cut and it is going to sit and rot. In a year's time there will only be weeds, no grass.

Mr. Robert Yasher from 134 Widgeon Way reported that aesthetically speaking, the taller grass looks nicer, especially when it is in bloom. People commented on the beautiful view and then it was cut down and it looked like an old corn field.

Mr. Larry Skala from 108 Whistling Duck Dr. advised there is a farm field adjacent to the development that has grown wheat and corn a lot taller than 24". Imagine all the vermin in there! He asked why the farmer was held to a different standard. It was explained the farmer is not in Town limits.

Mr. Dick Haggquist from 33 Amanda's Teal Dr. advised the reason for not mowing all areas to 8" is because they are unplatted areas with no construction. It is totally impractical to mow these hundreds of acres to 8" because the huge mowers are only capable of mowing to 8". You would be mowing constantly to keep the fields no higher than 8". He believes it is important to understand that a major part of the economic engine of Bridgeville is H.S. Real estate taxes, etc. are the short-term answer, but for the long-term you are looking at a neighborhood of about 1,800 taxpayers. Why is there so much acrimony when we talk about H.S.? The Commissioners constantly tell us we're one big happy family, but he believes they are paying H.S. residents lip service.

Ms. Cheryl Malone advised she is new to H.S. and has a different perspective. She moved here because she saw a beautiful place, whether it is 24", 18" or manicured. She comes from a place with a zillion cars and lots of pollution, so we have a lot to be grateful for here. The grass height won't make any difference to her.

There being no further comments in favor of the application, Solicitor Schrader asked if anyone wanted to speak in opposition to the application. There being none, Solicitor Schrader turned the meeting over to President Correll. The Commissioners can vote on the application for a landscaping plan for the Residential Planned Community (RPC); it will be considered an amendment to their RPC approvals. There is a recommendation of 24" and 18" from the P&Z. The Commission may approve as recommended, change the numbers, or defer until a later time. It takes 3 affirmative votes to approve the plan.

Town Manager Savage asked Solicitor Showalter about the status of the boundary that was to be placed around the future development area that is wooded. There are stakes at the corners, but you can hardly see them; currently, it is encroaching on the ball field. Solicitor Showalter advised the stakes were added so the mower could drive from stake to stake. The stakes can be made larger if that is helpful. For the rest of the property, if breakpoints would be helpful for the Code Officer, they can be provided. The intention is to live within the guideposts on the plan.

President Correll advised she took pictures at the ball field this week; there are 25-35 trees and she didn't see the boundary stakes at all. There's never been a wooded area there before and it has been

growing now for 7-8 years. Solicitor Showalter assured her the posts could be painted white or whatever is necessary to make them visible.

Commissioner Kovack remembers attending a meeting approximately three years ago with Mr. Carro and President Correll when she asked them reign in that area and remove the trees. They have ignored the Town's requests for 3 years. Now the developer is requesting another concession from the Town and he is aware of the large profit the developer has made on homes sold. Commissioner Kovack believes he has a responsibility to represent the people of Bridgeville, whether they live in H.S. or in the 4<sup>th</sup> District, which he represents. The developer is asking for Ordinances that will benefit the development, not the entire Town. When the Town has asked for the developer's assistance, it hasn't been given.

Solicitor Showalter reported the proposed changes are only for the interim until all the houses are built. When the project is built-out, the 8" rule will apply across the board.

Commissioner Kovack reiterated that 3 years ago President Correll, along with the Town Manager, rode with Mr. Carro and Mr. Dubbé and she politely requested that these areas be taken care of. At that time the developer guaranteed the trees would be removed and it hasn't been done.

Solicitor Showalter advised he was not involved at that time and could not comment concerning what actions were requested or promised. He became involved about a year ago and attended meetings with the CEO, Town Manager, Mr. Dubbé and Mr. Carro where they were asked to define the boundaries of the wooded area so it wouldn't grow any bigger. A map was submitted in the late summer of last year.

Commissioner Kovack contended that the map didn't address the issues the Town had asked to be addressed. He reported the developer kept returning with the same map and no changes numerous times.

Town Manager Savage asked if the developer has an estimate of the cost savings with this proposed mowing plan. Solicitor Showalter advised the cost savings would be dependent on the rain frequency. He believes in an average year it would be \$30,000-40,000. Commissioner Kovack advised the developer had paid \$18,700 to Jim Walls last year for mowing.

Solicitor Schrader closed the Public Hearing at 7:34 P.M.

Commissioner Tassone made a motion to accept P&Z's recommendation of 24" and 18", as supported by the map. He believes "the people have spoken; they live there and they don't want to pay the cost for 18" maximum height of grass. So be it."

Commissioner Kovack seconded the motion. President Correll called for the vote:

Commissioner Kovack – Nay

Commissioner McDowell – Nay

Commissioner Tassone – Aye

President Correll – Abstain

1 vote in favor, 2 votes against, 1 abstention; the vote fails for lack of receiving a majority vote of the members elected to the Commissioners of Bridgeville.



Commissioner Kovack made a motion to accept the May 15<sup>th</sup> P&Z's recommendation for mowing heights of 18" and 12", which carried that night 5 to 1. He believes the June vote by P&Z should never have taken place and read from the June P&Z Minutes. Commissioner McDowell seconded the motion. President Correll called for the vote:

Commissioner Kovack – Aye

Commissioner McDowell – Aye

Commissioner Tassone – Nay

President Correll – Abstain

2 votes in favor, 1 vote against, 1 abstention; the vote fails for lack of receiving a majority vote of the members elected to the Commissioners of Bridgeville.

Commissioner Tassone asked Solicitor Schrader about the next step, since we need a maintenance and a grass plan for H.S. Solicitor Schrader advised the plan could be brought back next month if Commissioner Mervine is willing to listen to the tapes of these proceedings and make a decision based on tonight's meeting.

Commissioner Kovack advised the developer has deferred from cutting the grass until a favorable or unfavorable ruling the last 2 months. The man who is under contract to cut the grass at the development, Jim Walls, is out of Town. Do we return to the code that says they cut all areas to 8"?

Town Manager Savage advised the developer was never instructed not to cut the grass until a decision was made.

Commissioner Tassone made a motion to allow Commissioner Mervine to listen to the tapes of these proceedings and bring the matter back to the Commission at the August 12<sup>th</sup> Commission meeting. Commissioner Kovack seconded the motion. President Correll called for the vote:

Commissioner Kovack – Aye

Commissioner McDowell – Aye

Commissioner Tassone – Aye

President Correll – Aye

The vote was 4 to 0 in favor of bringing the application before the Commissioners of Bridgeville at their August 12<sup>th</sup> meeting after Commissioner Mervine has had an opportunity to listen to the tape of tonight's proceedings.

Commissioner Kovack asked Commissioner Tassone if he would approve a height of 18" and 18" for the yellow and pink areas of H.S. Commissioner Tassone believes the H.S. residents have spoken and want the 24" and 18" heights and he will continue to support that, despite his personal preferences.

**B. Public Hearing and Possible Approval of an Ordinance amending the Land Use and Development Code of Bridgeville to increase the maximum height limit for accessory buildings (Tassone - #2013-D)**

Solicitor Schrader advised this Ordinance concerns the maximum height of accessory buildings in the Town of Bridgeville and would amend Section 234-48 by substituting the maximum height of accessory buildings from 12 feet to 15 feet. This matter was heard before P&Z and they recommended to the Commissioners of Bridgeville a denial of the Ordinance with a vote of 6 to 0.

Solicitor Showalter advised the reason for the 3 Ordinances that are on tonight's Agenda is to position the Town's Code to provide some flexibility for future phases in H.S. They are preparing the next phase in time for construction in the spring of 2014 and this is critical from a marketing success perspective. The applicant desires clarity from the Town through a text amendment process before committing time and resources to preparing plans, to assure the plans are not speculative concerning concepts that are not currently permitted by the Town Code. They have listened to H.S. residents and the Town P&Z concerning a desire for plans that illustrate those concepts. Solicitor Showalter advised he has submitted a letter requesting the postponement of Ordinances #2013-D, E and F. Solicitor Showalter advised Passwaters Farm LLC is in the process of rapidly producing plans to illustrate what these text amendments could authorize. He should know by the end of the week when those plans will be complete. They intend to present the plans to the H.S. homeowners and to the Town Commission. He is requesting that the Public Hearings be postponed to allow for the completion of the plans. Solicitor Showalter advised the developer is certainly willing to have these impending plans reviewed by the P&Z if the Town Commissioners so desire. It is important that these text amendments be approved in as timely a manner as possible. They will share the plans with the community and Commissioners as soon as they are available. He hopes they will be available within the next month. He reiterated the developer's desire to postpone the scheduled Public Hearings for tonight. Due to the incurred cost, they will certainly pay for the cost of re-advertising the future Public Hearings.

Solicitor Schrader re-iterated that Solicitor Showalter is requesting that all 3 Ordinances (#2013-D, E and F) be postponed for a Public Hearing this evening. Solicitor Schrader advised the Town is obligated by law to publish Public Hearings, so that citizens may appear and give public comment. If this application is returned to the P&Z for their review and recommendation and is not going to return to the Town Commission possibly before September or October, is there any reason why you shouldn't withdraw the applications and restart them.

Solicitor Showalter advised the reason for a postponement is that, if withdrawn, they would need to be re-introduced by the Town Commission, followed by referral to the P&Z, so their desire is to keep them active by postponement to avoid the additional month of re-introduction/re-advertising.

Solicitor Schrader asked if all expenses incurred by the re-advertising, re-publication and re-hearing of the applications would be borne by his client. Solicitor Showalter replied, "yes." Solicitor Schrader advised the developer will waive any legal claims to any deficiencies in the process by reason of asking for a deferral of these Ordinances. Solicitor Schrader asked the public if there were any persons present who are interested in these 3 Ordinances by reason of some interest other than H.S., because you are the representative of another subdivision, another RPC, or you are a citizen of the Town of Bridgeville that has a general interest in these 3 proposed Ordinances, because these 3 Ordinances would apply to all RPC's within the Town of Bridgeville. He asked if there were any individuals present who wished to speak to that issue. There being none, Solicitor Schrader excused Solicitor Showalter.

Solicitor Schrader advised Solicitor Showalter has written a letter dated July 3 and circulated it among the Commissioners, requesting that these 3 Ordinances be deferred until a later date. They have been submitted by H.S., but are relevant to any RPC's that are developed in the Town. If the Commissioners choose to defer the Ordinances, Passwaters Farm LLC will pay all additional costs incurred by the Town and will waive any legal deficiencies by reason of the delay. Solicitor Schrader added there are no persons present who have indicated they are here tonight for any reason other than to

comment on the H.S. applicability of these Ordinances. The Commissioners can now vote as to whether they want to defer these 3 Public Hearings.

Commissioner Tassone thanked Solicitor Showalter for listening to the H.S. residents at the 4 focus sessions that have taken place and for reacting appropriately. The homeowners wanted to see some sort of plans and he is to be commended for listening to them. There is a strong interest by the residents in what is going on there.

Commissioner Tassone made a motion to table the 3 Ordinances before the Town Commission tonight in order to give the developer time to complete their presentation and to make the presentation to the community at a public meeting and take the presentation to the P&Z before returning to the Town Commission. The motion died for the lack of a second.

Solicitor Showalter proceeded to Ordinance #2013-D to increase the maximum height limit for accessory buildings in the Town of Bridgeville from 12 feet to 15 feet. The amendment was driven by a concept of building an accessory building called a casita. It could not have cooking, bathing and sleeping facilities in it. The footprint of the structure requires a taller roof for aesthetic purposes and to avoid a very flat roof. Casitas would only be allowed in future phases of the project, not in Phases 1 or 2, to make sure there are no obstructions to views of the golf course. The Ordinance would apply town-wide.

Solicitor Schrader asked if this accessory building would be less than 2-story, but more than 1-story. Solicitor Showalter reported that is correct. Solicitor Schrader asked clarification that the extra 3 feet would not be occupied space. Solicitor Showalter agreed that is correct. Solicitor Schrader asked if there are any principal structures in H.S. that are greater than 15 ft. Solicitor Showalter answered yes. Solicitor Schrader asked if there are any principal structures in H.S. that are less than 15 ft. Solicitor Showalter doubted there were any principal structures less than 15 ft. at the development.

Solicitor Schrader asked for questions from the Commissioners. Town Manager Savage asked if the Commission President can second a motion. The general consensus was that the President can second a motion.

Solicitor Schrader asked for comments from the audience in favor of the application.

Ms. Cheryl Malone from 40 Amanda's Teal Dr. expressed confusion. She is a new resident and went to great lengths to review the development on the internet. She understood that the development had lots for 1,800 homes and assumed Bridgeville had adopted that plan. She purchased the home and learned about the Covenants/HOA Agreement, which state there will be no accessory buildings allowed. Why are casitas even being brought up for discussion?

Mr. Ron Maas from 112 Widgeon Way advised he has been a property owner since 2007. He believes he speaks for a lot of people in the community who are upset with these new plans. There is a lot of opposition to a casita by those who have lived elsewhere and are familiar with them. They tend to grow into an occupancy, which isn't permitted. It starts with a hot plate and then a daybed, but eventually the casitas will house guests. This will violate the Covenants and is not what homeowners bought into when they purchased their property. He stated the developer believes this addition is needed; however, there are currently many houses being built without casitas. He also expressed concern about the smaller lots with minimum setbacks. Many residents are concerned because it is something new that they didn't

sign off on. They are also concerned about the location of the casitas. They understand that Phase 3 will be located between the 1<sup>st</sup> and 18<sup>th</sup> fairway, which is directly behind the clubhouse. The reason residents have been concerned and asked for a conceptual plan (not a more detailed development plan) is that they suspect these accessory buildings will be in the area the clubhouse overlooks and they don't want that.

Mr. Alan Green from 47 Emily's Pintail Dr. asked whose interest is being served by pushing this forward without all the information. Didn't we learn a lesson from the Affordable Health Care Act? He does not want to see the Commissioners vote on these Ordinances without all the information. Solicitor Schrader commented the Ordinances apply to all real property within the Town of Bridgeville. It is not solely limited to H.S.

Mrs. Mary Delclos from 51 Whistling Duck Dr. questioned the casitas. It's not a residence? Solicitor Schrader advised it is a detached accessory building and is not intended to be a dwelling.

Mrs. Jacqueline Vogle from 124 Widgeon Way advised CEO Butler had shared helpful information at the P&Z meeting about water/sewer, etc. in accessory buildings. She also agreed with a previous comment that the H.S. Covenants do not allow accessory buildings.

Solicitor Schrader further stated H.S. would be required to submit an amendment to the RPC approval. He commented accessory structures would also include sheds, garages, etc.

Solicitor Schrader closed the Public Hearing at 8:11 P.M.

Commissioner McDowell read from the P&Z recommendation to the Commissioners of Bridgeville at their June 19<sup>th</sup> meeting. After discussion and a Public Hearing, the P&Z voted to deny the Ordinance with a vote of 6 to 0.

Commissioner Kovack made a motion to deny the Ordinance. Commissioner McDowell seconded the motion. President Correll called for the vote:

Commissioner Kovack – Nay

Commissioner McDowell – Nay

Commissioner Tassone – Abstain

President Correll – Nay

Solicitor Schrader advised the Ordinance is denied by a vote of 3 nays, 1 absent and 1 abstention.

**C. Public Hearing and Possible Approval of an Ordinance amending the Land Use and Development Code of Bridgeville as it relates to lot access, street standards, off-street parking and shared parking in Residential Planned Communities (Tassone - #2013-E)**

Solicitor Schrader advised Ordinance #2013-E would change the number of parking spaces per family for age-restricted units, change the parking for retail areas and also describes additional shared parking facilities, etc.

Solicitor Showalter reported that, based on comments heard from P&Z, the Town Commission and H.S. residents, he would like to withdraw the remaining new Ordinances (#2013-E/#2013-F) from consideration, if the Commissioners are inclined to permit it.

Commissioner Tassone made a motion to accept Solicitor Showalters's request for withdrawal so they can prepare documents that they should have prepared a month ago to submit to the Town and the residents of H.S. to determine if these are changes the homeowners wish to entertain.

Commissioner Kovack seconded the motion, adding that what the developer plans to do will be in violation of the agreement between the developer and the Commissioners of Bridgeville concerning the allotted amount of homes/lot sizes/streets, etc. They will need to initiate another agreement with the Town.

Solicitor Schrader agreed with Mr. Kovack, except to say that these Ordinances would have to be adopted and then the H.S. RPC would have to go back through a process of amending the plan. The changes would have to be accepted. Adopting these Ordinances does not automatically mean that H.S. can do the things contained within these Ordinances. Commission President Correll called for the vote:

Commissioner Kovack – Aye

Commissioner Tassone – Aye

Commissioner McDowell – Aye

President Correll – Aye

Solicitor Schrader advised the vote was 4 to 0, with Commissioner Mervine's absence, to allow H.S. to withdraw the last 2 Ordinances for consideration this evening.

#### **XV. INTRODUCTION OF ORDINANCES**

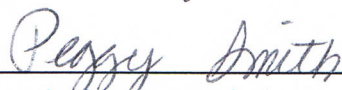
The only Agenda item still pending would be the introduction of new Ordinances. There were no new Ordinances to be introduced.

#### **XVI. ADJOURNMENT**

Motion to adjourn – Kovack; 2<sup>nd</sup> – Tassone; motion carried. The meeting was adjourned at 8:18 P.M.

Respectfully submitted,

  
Lawrence Tassone, Commission Secretary

  
Peggy Smith, Transcriptionist